

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

IN RE:)) CASE NO. 05-83236
))
Jacquelyn McFadden,)) CHAPTER NO. 7
Debtor.))

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES Union Acceptance Corporation c/o Systems & Services Technologies, Inc. ("Movant"), its successors and/or assigns filing this its Motion for Relief from the Automatic Stay ("Motion"), and in support thereof, would respectfully show:

1. On October 11, 2005, Jacquelyn McFadden ("Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code.
2. This Court has jurisdiction of the Motion by virtue of 11 U.S.C. §§ 105,361 and 362 and 28 U.S.C. §§157 and 1334.
3. Movant is the owner and holder of a Vehicle Retail Installment Contract ("Agreement"), signed by Debtor. Movant is secured under the Agreement by a properly perfected first lien security interest in a 1998 PONTIAC TRANS SPORT-V6 EXTENDED WAGON SE 4D VIN: 1GMDX03E1WD280478 ("Vehicle"). True and correct copies of the Agreement and the Certificate of Title, indicating proper perfection of Movant's security interest in the Vehicle, are attached hereto as Exhibit "A" and "B", respectively.
4. By virtue of the above, Movant is the holder of a secured claim against Debtor in the amount of \$8,257.76 as of October 11, 2005.
5. Debtor is in default under the terms of the Agreement by failing to make the September 5, 2005 payment of \$306.67 and all subsequent payments

when due and owing pursuant to the terms of the Agreement. The amount of default owed by Debtor totals \$542.34.

6. Movant alleges that the automatic stay should be lifted for cause pursuant to 11 U.S.C. §362(d)(1) in that Movant lacks adequate protection of its interest in the Vehicle as evidenced by the following:

- (a) Debtor has defaulted under the terms of the Agreement by failing to make installment payments when due and owing thereunder;
- (b) The Vehicle, and the value of the Vehicle, is in a state of decline and continues to decline; and
- (c) Debtor is unable to show that the Vehicle is properly insured.

7. Alternatively, Movant alleges that the automatic stay should be lifted for cause pursuant to 11 U.S.C. §362(d)(2) in that Debtor has no equity in the Vehicle and it is not necessary for an effective reorganization. According to the October 2005, issue of the NADA Official Used Car Guide (a publication commonly relied upon by banks, insurance companies, government agencies, and car dealers in determining the value of used Vehicles), the retail market value of the Vehicle at the time Debtor commenced this bankruptcy proceeding was approximately \$6,300.00.

8. Movant has had to retain counsel to represent it before this Court and is incurring attorneys fees and court costs for which it is entitled to reimbursement under the terms of the Agreement.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully prays that, upon final hearing of this Motion, (1) the automatic stay will be terminated as to Movant to permit Movant to seek its statutory and other available remedies; (2) Movant be permitted to obtain possession of the Vehicle to the exclusion of

Debtor; (3) Movant be granted its attorney's fees and costs; (4) that the stay terminate upon entry of this Order pursuant to the authority granted in Fed.R.Bankr.P., Rule 4001 (a)(3); and (5) Movant be granted such other and further relief, at law or in equity, as is just.

Respectfully submitted this the 26th day of October, 2005.

PULLEY, WATSON, KING & LISCHER, P

/S/ Charles F. Carpenter

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Local Counsel for Movant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay has been served upon the following parties in interest by first class Mail on the 26th day of October, 2005.

Pro Se Debtor

Jacquelyn McFadden
6010 Millstone Dr.,
Durham, Ohio 27713-0000

Trustee

Sara A. Conti
Chapter 7 Trustee
P.O. Box 939,
Carrboro, North Carolina 27510

U.S. Bankruptcy Administrator

Michael West
Bankruptcy Administrator
P.O. Box 1828
Greensboro, North Carolina 27402

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